

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-3, 6-12, 14, 15, and 22 are pending in the present application. Claims 1, 6, 10, 15, and 22 are amended and Claims 4, 5, 13, 16-21, and 23 are canceled without prejudice.

In the outstanding Office Action, Claims 1-3, 10-12, and 22 were rejected under 35 U.S.C. § 112, first paragraph; Claims 1-3, 10-12, and 22 were rejected under 35 U.S.C. § 103(a) as unpatentable over Kobayashi (U.S. Patent No. 5,144,615, herein “Kobayashi ‘615”) in view of Kobayashi (Japanese Patent Application No. JP 02096937 A, herein “Kobayashi ‘937”); Claims 4, 6-8, 16, and 18-20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Kobayashi ‘615 in view of Izumi et al. (U.S. Patent No. 5,598,392, herein “Izumi”) or Horibe et al. (U.S. Patent No. 5,598,396, herein “Horibe”); Claims 5, 9, 17, and 21 were rejected under 35 U.S.C. § 103(a) as unpatentable over Kobayashi ‘615, Izumi, and Nagaai (Japanese Patent Application No. JP 60187933 A); Claim 14 was rejected under 35 U.S.C. § 103(a) as unpatentable over Kobayashi ‘615 in view of Iwasaki et al. (U.S. Patent No. 5,761,179, herein “Iwasaki”); Claim 23 was rejected under 35 U.S.C. § 103(a) as unpatentable over Kobayashi ‘615 in view of Kasami et al. (U.S. Patent No. 6,312,780, herein “Kasami”); and Claims 13 and 15 were indicated as allowable if rewritten in independent form.

Applicants thank the Examiner for the indication of allowable subject matter. In view of that indication, independent Claims 1, 6, and 10 are amended to (i) omit the features rejected under 35 U.S.C. § 112, first paragraph, and (ii) recite the allowable subject matter of Claim 13, and Claim 13 is thus canceled. No new matter it is believed to be added. Further,

Claims 4, 5, and 16-23 are canceled. Thus, it is believed that independent Claims 1, 6, and 10 and each of the claims depending therefrom are in condition for allowance.

Further, independent Claim 22 is amended to omit the features rejected under 35 U.S.C. § 112, first paragraph, and to recite the features of Claim 23, and Claim 23 is thus cancelled. No new matter has been added.

Regarding the rejection of Claim 22 under Kobayashi '615 and Kobayashi '937, that rejection is respectfully traversed for the following reasons.

Independent Claim 22 has been amended to recite the features of Claim 23. Regarding those features, the outstanding Office Action states in the paragraph bridging pages 7 and 8 that "Kobayashi does not disclose that the Sb/Te content ratio is 2 to 5 in terms of atomic %." Thus, it is respectfully submitted that amended Claim 22 patentably distinguishes over Kobayashi '615 and Kobayashi '937, either alone or in combination.

However, the outstanding Office Action relies on Kasami for teaching the claimed content ratio of Sb/Te. More specifically, the outstanding Office Action indicates that Kasami shows in Figures 10 and 13 a recording layer having a ratio of Sb/Te of 2 to 5. However, Applicants respectfully submit that the ratio of Sb to Te disclosed by Kasami in Figures 10 and 13 is 2/5, i.e., 0.4 (the content of Te is greater than the content of Sb), which is different than the claimed range of 2 to 5 (the content of Sb is greater than the content of Te).

Accordingly, it is respectfully submitted that amended independent Claim 22 patentably distinguishes over Kobayashi '615, Kobayashi '937, and Kasami, either alone or in combination.

Further, entry of the present amendment is respectfully requested because the features of Claim 23 added to Claim 22 have been previously considered and the present amendments do not raise new issues.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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